

REMARKS

Claims 11-13, 15-19, 29-32 and 36-44 are now pending. By this Amendment, claims 11, 15, 16, 18 and 29 are amended; claims 14, 20-28 and 33-35 are canceled; and claims 37-44 are added.

The specification is objected to based on the blank on page 7, line 3. The specification has been amended herein to overcome this objection.

Claims 11-14, 16 and 23-25 are rejected under the judicially created doctrine of obviousness-type double patenting over claims 15-18 of U.S. Application No. 10/099,943 filed March 19, 2002 (hereinafter "the 943 application"). As noted in the Office Action, this is merely a provisional rejection since the 943 application has not issued as a patent. Applicants will submit a response to this provisional rejection if a patent issues in the 943 application. In the meantime, it is respectfully submitted that no response to the provisional rejection is required. It is understood that the rejection will remain until the claims are found allowable.

Claims 15, 18-22, 26-30, 33, 35 and 36 are rejected under 35 U.S.C. §102(e) as being anticipated by Fahy. Applicants respectfully traverse the rejection.

Claims 15 and 18, which originally depended on claim 11, have been re-amended to depend on claim 11. Claim 11 has not been rejected on this basis. Therefore, the rejection over Fahy of claims 15 and 18, as well as claim 19, which depends on claim 18, should be reconsidered and withdrawn.

Claim 29 is directed to a cryopreservation composition comprising at least one cyclohexanediol compound and at least one additional cryoprotectant compound selected from a specified group of compounds. Claim 29 has been amended herein to delete propylene glycol from this list of compounds. In addition, the list of compounds does not include DMSO or formamide. Fahy does not teach, nor does it suggest, a cryopreservation composition comprising at least one cyclohexanediol compound and at least one of the additional

cryoprotectant compounds listed in claim 29. Therefore, the rejection over Fahy of claim 29, and claims that depend on claim 29, should be reconsidered and withdrawn.

Claims 11-15, 20-22, 29-33 and 36 are rejected under 35 U.S.C. §102 over O'Connell et al. Applicants respectfully traverse the rejection.

Claim 11 has been amended to recite a composition comprising at least one 1,4-cyclohexanediol compound and at least one additional cryoprotectant compound selected from a specifically recited group of compounds. This specifically recited group of compounds does not include sucrose. O'Connell does not teach or suggest a composition comprising at least one 1,4-cyclohexanediol compound and at least one additional cryoprotectant composition selected from the list recited in claim 11.

Claim 29 is directed to a cryopreservation composition comprising at least one cyclohexanediol compound and at least one additional cryoprotectant compound selected from a specifically recited group of compounds. This specifically recited group of compounds has been amended to delete sucrose. O'Connell does not teach or suggest a cryopreservation composition comprising at least one cyclohexanediol compound and at least one additional cryoprotectant compound selected from the group recited in claim 29.

All of the other claims rejected on this basis have been canceled or depend on claims 11 or 29. Therefore, the rejection under 35 U.S.C. §102 over O'Connell should be reconsidered and withdrawn.

Claims 16, 17, 23-25 and 34 are rejected under 35 U.S.C. §103 over Fahy in view of Chao et al. Claims 23-25 and 34 have been canceled. With regard to claims 16 and 17, Applicants respectfully traverse the rejection.

Claims 16 and 17 have been amended to depend on claim 11, which is not rejected over Fahy. In particular, Fahy does not teach or suggest a cryopreservation composition comprising a 1,4-cyclohexanediol compound. In addition Chao does not overcome the deficiencies of Fahy.

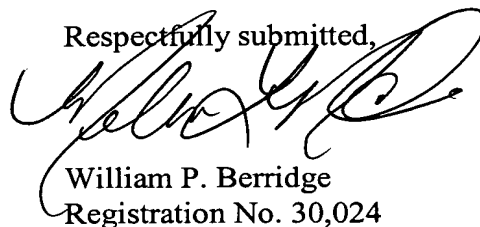
O'Connell, which is referred to in the §103 rejection, although not clearly applied, does not teach or suggest the invention of claim 11 for at least the reasons discussed above. In addition, Chao does not overcome the deficiencies of O'Connell. Therefore, claims 16 and 17 are patentable over O'Connell in view of Chao.

New claims 37-44 have been added to further define the inventions. These claims ultimately depend from claim 29 , and are therefore patentable for at least the reasons discussed above with regard to claim 29.

In view of the foregoing amendments and remarks, Applicants respectfully submit that this application is in condition for allowance. Favorable consideration and prompt allowance of claims 11-13, 15-19, 29-32 and 36-44 are earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in even better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number set forth below.

Respectfully submitted,



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